THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.24869 of 2001

Dated:19.04.2007

Between
AP Oil seeds Growers' Federation
Limited, Parisrama Bhavan,
Bashir Bagh, Hyderabad
Rep., by its Managing Director.

.....Petitioner

and

1.The Chairman and Presiding Officer
Industrial Tribunal cum Labour Court
Anantapur Dist, Anantapur and others.

…Respondents

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W.P.No.24869 of 2001

ORDER:

This writ petition is filed challenging the Award made in I.D.No.338 of 1197 dated 23.8.2001 on the file of the Industrial Tribunal-cum-Labour Court, Anantapur.

The petitioner is the Management and 2nd respondent is the workman.

It appears that the services of the second respondent were terminated after conducting a detailed enquiry into certain charges leveled against him. Aggrieved by the same, he filed a claim petition under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short, 'the Act') before the Labour Court. It was his case that he worked as Stores Assistant in the petitioner-Management. While working as such, the petitioner-Management found certain

irregularities and issued a charge memo on 30-12-1991 to the 2nd respondent, for which he submitted his explanation. Having not satisfied with the same, the Management conducted a domestic enquiry into the matter. The Enquiry Officer found the second respondent guilty of the charges. It is the contention of the second respondent that the charges are vague and not maintainable. The Enquiry Officer is not competent to conduct detailed enquiry since he conducted preliminary enquiry and gave report. Apart from that one AKC Reddy, who was charged similarly, was exonerated. The main function of the AP Cooperative Oil Seeds Grower's Federation Limited is to purchase old seed such as ground-nut, processing of ground nut pod, extracting ground nut oil and dispatching or selling locally. The godowns are situated nearly 4 KMs away from the branch office. The lorries, which come with load, have to get permission from the Manager of the branch

office to enter into godown. The security, who will be on duty, will allow the loaded lorry into the godown. The oil fed stores Assistant A.Basheer Ahamed will weigh the loaded lorries and acknowledge the receipts with the counter signature of In-charge Officer, A.P.S.O.G.C.F Ltd. Even assuming that the charges are proved, the punishment is disproportionate to that of the misconduct.

The petitioner-management filed a detailed counter denying the allegations made by the second respondent. According to the Management, the Branch Office, on comparison with the bills of the Stores Assistant and the record and the Security Agency, found that two lorries of ground nut pod load on 11.11.1991 and 15.11.1991, were not entered in the godown for unloading the ground nut pod. The petitioner with a mala fide intention created some receipts with the APSWC Officer as counter signed on the receipts in token of the acknowledgement.

The procedure as stated in the petition by the second respondent is not correct. The Enquiry Officer conducted an enquiry after giving full and fair opportunity to the second respondent and as such he does not deserve for any relief.

Before the Labour Court, no oral or documentary evidence was adduced by either parties. However, the Labour Court, on the basis of the material placed before it, came to the conclusion that the domestic enquiry conducted by the Enquiry Officer is valid and the charges leveled against the petitioner are proved. However, while coming to the proportionality of the punishment, it came to the conclusion that the Stores Supervisor, who was charged with misconduct was let off, whereas the petitioner was inflicted with punishment of dismissal from service. Apart from the fact that the Officer, who conducted the preliminary enquiry also conducted a detailed domestic enquiry, which is not permissible. The Management ought to have

taken precautions to avoid such conflicts. Further, similar charges were framed against the other employee ie., Stores Supervisor. But the enquiry report is silent as to how the said Stores Supervisor was exonerated without fixing the ratio of responsibility. It is the plea of the workman that the Stores Supervisor was suspended on similar ground but reinstated even before completion of enquiry. Further, the Labour Court found that the charges framed against the respondent No.2 do not speak about the alleged misappropriation. The enquiry report does not speak about the involvement of other workman even though the charge sheet was issued against him. Taking all the circumstances into consideration, the Labour Court held that the punishment imposed against the respondent No.2 was disproportionate to that of the misconduct and while exercising its discretionary powers under Section 11-A of the Act, a lenient view was taken and the respondent-workman was

directed to be reinstated into service afresh. Further the Management was directed to defer four annual increments with cumulative effect.

Heard both sides.

The Labour Court has not disturbed the findings of the Enquiry Officer as confirmed by the disciplinary authority. But while exercising its discretionary powers under Section 11-A of the Act found that the punishment of dismissal from service was disproportionate to that of the misconduct in the peculiar facts and circumstances of the case. Under these circumstances, I am of the opinion that no interference can be made into such an impugned award, which is discretionary in its nature while exercising its powers under Section 11-A of the Act. Writ petition is devoid of merits and is liable to be dismissed.

Writ petition is accordingly dismissed. No costs.

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19-04-2007

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